BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
08/24/21
02:07 PM

Order Instituting Rulemaking on the Commission's Own Motion to Consider Renewal of the Electric Program Investment Charge Program.	Rulemaking 19-10-005

CALIFORNIA ENERGY COMMISSION COMMENTS ON PROPOSED DECISION APPROVING THE UTILITIES AS ELECTRIC PROGRAM INVESTMENT CHARGE ADMINISTRATORS WITH ADDITIONAL ADMINISTRATIVE REQUIREMENTS

Christina Evola
Senior Attorney
Chief Counsel's Office
CALIFORNIA ENERGY COMMISSION
715 P Street
Sacramento, CA 95814-5512
Telephone: (916) 891-8095
Email: christina.evola@energy.ca.gov

August 24, 2021

I. INTRODUCTION

The California Energy Commission (CEC) appreciates the opportunity to provide comments on the California Public Utilities Commission (CPUC, Commission) August 4, 2021 *Proposed Decision Approving the Utilities as Electric Program Investment Charge Administrators with Additional Administrative Requirements* (Proposed Decision). These comments are submitted in accordance with CPUC Rule of Practice and Procedure (CPUC Rule(s))14.3(a).

II. DISCUSSION

1. Initiative Categories Should be at the Strategic Policy Level.

The Proposed Decision states that EPIC investment plans "must show funding amounts at the initiative level, instead of at the broader program area level."[1] The CEC asserts that the initiative-level categories must be at the policy level, not the operational level. The CEC also recommends that initiatives be defined broadly enough to avoid frequent administrative delays for fund shifting as well as allow responsiveness to emergent energy challenges and promising technology developments. Defining the EPIC initiatives at the strategic policy level that the CEC has used to organize its research topics in EPIC 4 is proposed, which includes the following:

- Accelerate Cost Reductions for Renewable Generation Technologies
- Achieve Reliability and Create a Nimble Grid Responsive to Intermittent Renewable Generation
- Increase the Value Proposition of Distributed Energy Resources to Customers and the Grid
- Improve the Customer Value Proposition of End-use Efficiency and Electrification Technologies.
- Enable Successful Clean Energy Entrepreneurship Across California
- Inform California's Transition to an Equitable, Zero-Carbon Energy System that is Climate Resilient and Meets Environmental Goals

These initiatives are sufficiently robust and already reflect substantial public and stakeholder input, and have been vetted via public workshops that have included over 1,700 participants over 10 events. Indeed, in addition to the CEC's EPIC 4 Plan, the IOUs could use the

---

[1] Proposed Decision, p. 39.

initiatives applicable to their funding areas (*i.e.*, *Achieve Reliability and Create a Nimble Grid Responsive to Intermittent Renewable Generation*) in their EPIC Investment Plans to the extent that they do not fall within project areas that are prohibited such as Applied Research and Development and Market Facilitation.[2] This is consistent with the Proposed Decision's Ordering Paragraph 7: "All EPIC Administrators shall file investments plans at the initiative level, similar to how the California Energy Commission currently files its investment plans."[3]

These initiatives reflect the appropriate level for funding estimates because they align well with current state policy drivers and goals, will withstand the test of time, and will not need frequent revision in the foreseeable future. Finer-level initiative categories are not recommended as they would require frequent revision and fund shifting during an investment plan term to reflect current market and technology landscapes. In addition, investment plans capture the maximum scope of more detailed research concepts that may be funded during plan implementation. Some research topics described in investment plans do not get funded during the solicitation development phase depending on changed or unforeseen circumstances, the applicant pool, or research trends. Thus, to maximize benefits to ratepayers and the program goals, flexibility is necessary to shift funding among solicitations and initiatives to those circumstances.

Funding estimates in these six strategic initiatives would provide the CPUC the opportunity to provide input on the investment level and policy direction for each initiative while allowing administrators to maintain flexibility to shift focus to different technologies and allocate funds among solicitations within these initiatives as necessary. For example, CPUC could provide guidance on the relative weight as measured by the proposed budget given to the *Improve the Customer Value Proposition of End-use Efficiency and Electrification* initiative in the investment plan. Meanwhile, the research topics would describe specific technologies and strategies like fenestration and building envelope technologies.

Initiatives defined at the strategic policy level for EPIC represent an appropriate level of detail for providing initiative funding estimates. This would impart balance between the desire to increase transparency while maintaining responsiveness and efficiency.

---

[2] *See id.*, p. 29. Consequently, "Entrepreneurial Ecosystem" would be something unique to the CEC and would not be an initiative shared by the IOUs.
[3] *Id.*, Ordering Paragraph 7.

As mentioned in previous comments, CEC strongly recommends the CPUC allow for a streamlined process to reallocate funding among initiatives.[4] Therefore, the CEC respectfully requests that the CPUC modify the Proposed Decision to clarify "initiative." Specifically, the CEC recommends that Findings Paragraph 13 be modified to state: "Requiring the CEC to file investment plans at the initiative level, such as the CEC's strategic objectives for the EPIC 4 Plan, provides greater transparency into the level of funding and effort required for each initiative." As for the IOUs, a separate Findings paragraph could use similar language to existing Findings Paragraph 13 and acknowledge that the IOUs would have slightly different initiatives that would be "similar to how the CEC files its investment plans." The CEC also observes that a complementary ordering paragraph could be beneficial.

2. The Administrative Expenses Cap Should be Increased from Ten Percent to Fifteen Percent to Continue the Current High Level of EPIC Benefits.

Declining to increase the ten-percent cap on administrative expenses will adversely impact EPIC. First, it is worth noting that the Sjoberg Evashenk Consulting audit report (Audit Report) does not support the conclusion that the cap should remain at ten-percent. Second, using non-EPIC CEC funds is not sustainable. Third, EPIC would be more impactful if the ten-percent cap is increased and this increase is warranted to align with comparable research programs and to provide funding for the inherent difference between incentive and research and development programs. Finally, the CEC stresses that it has meticulously complied with the CPUC's direction on administrative funding categorization and that revisiting the distinction between administrative funds versus program funds would be beneficial. Each of these points will be discussed in turn.

a. The Audit Report does not support a ten-percent cap on administrative expenses.

The Proposed Decision declines to increase the ten-percent cap on administrative expenses, citing the Audit Report as rationale. Namely, that "the CEC's administrative expenses have remained near ten percent, as have utilities."[5] The CEC respectfully observes that this reasoning is not factually supported by the Audit Report.[6] The fact that CEC has complied with the ten-percent limit for administrative spending should not be used as rationale for denying an increase because to do so, CEC needed to pull from other funding sources to make up the difference in EPIC's

[4] CEC Comments on Administrative Law Judge's Email Ruling Ordering Additional Comments, p. 2.
[5] Proposed Decision, p. 30.
[6] The CEC respectfully notes that the Audit Report does not support the conclusion that the CEC's administrative expenses will remain at or around ten percent and thus the proposed decision is not supported by the record. *See* Pub. Util. Code § 1757(a)(3)-(4) (a decision is subject to review if not supported by findings or substantial evidence).

inadequate administrative budget. Rather, the Audit Report "noted that while CEC's administration expenses remain within ten-percent of its overall EPIC budget, its required spending may cause it to ultimately exceed its administration budget prior to the expiration of the EPIC program" and that "at least one IOU voiced similar concerns."[7]

b. Using non-EPIC CEC funding is not sustainable to administer EPIC.

Increased spending is necessary to ensuring that EPIC continues to deliver its many ratepayer benefits and pulling from non-EPIC CEC funding is not sustainable in the long term as the ability to use those funds for administering EPIC cannot be relied on in the future. At least one such source, the Energy Resources Programs Account, is declining in revenue[8] as the CEC's responsibilities grow with new legislative mandates and the state's commitment to accelerate achievement of energy and climate goals.

c. EPIC could be more impactful with an increase in administrative funds.

The efforts that are sacrificed with limited resources are often the highest value-added activities. EPIC administrators must efficiently and effectively manage the funds and therefore cannot trim the direct project selection and management tasks. But highly desirable activities such as translating research results into policy forums – whether CEC Integrated Energy Policy Report, standards setting, or CPUC proceedings – are often truncated. Outreach to adequately engage with under-resourced communities is also challenged without adequate resources,[9] as well as sharing successful project results with other parties that would facilitate technology scale-up.[10]

As further discussed in detail in the CEC on the Phase 2 Issues Identified in the Commission's Phase 1 Decision Renewing EPIC (CEC's Opening Brief on Phase 2 Issues), there are several reasons why the CEC's EPIC administrative expenses budget should be increased to 15 percent, summarized in part here.[11]

First, an increase to a 15-percent administrative cap is precedented, warranted, and with the requested increase the administrative cap would still remain substantially lower than typical peer energy R&D programs.[12] Table 1 below identifies the total program allocation, total administrative

---

[7] Administrative Law Judge's Email Ruling Ordering Additional Comments, Audit Report at Attachment 2, p. 41.
[8] *Id.* p. 31.
[9] *See* Opening Brief of the CEC on the Phase 2 Issues Identified in the Commission's Phase 1 Decision Renewing EPIC, pp. 23-24.
[10] *Id.*, p. 24.
[11] *Id.,* pp. 23-32.
[12] *Id.*, p. 32.

budget, and the administration budget as a percentage of total program allocation for peer energy R&D programs administered by various entities.

Table 1: Administration Budgets of Typical Peer Energy R&D Programs

Research Entity	Total Allocation (Research and Admin)	Program Administration	Percent of Allocation
Department of Energy (Office of Electricity)[13]	$68,087	$13,824	20%
Department of Energy (Energy Efficiency and Renewable Energy)[14]	$831,348	$128,669	15%
New York State Energy Research and Development Authority[15]	$250,842	$34,541	14%
Southwest Research Institute[16]	$554,723	$221,647	40%
Gas Technology Institute[17]	$87,203	$32,688	37%

Second, the current administrative budget is inadequate for CEC to execute core functions of the program and address the increasing administrative responsibilities for EPIC.[18] The administrative cap was set at ten-percent at the beginning of EPIC, originally as a "soft-cap," and since then, there have been additional administrative statutory and regulatory duties that have been placed on the CEC, such as participating in the Policy + Innovation Coordination Group, hosting the annual EPIC Symposium, and implementing AB 523.[19]

These new requirements are in addition to the administrative functions identified in

[13] Department of Energy (DOE) FY 2020 Congressional Budget Request, March 2019. Volume 3, Part 1. FY19 Enacted budget for Office of Electricity (OE), Washington Headquarters, p. 59.
[14] Department of Energy (DOE) FY 2020 Congressional Budget Request, March 2019. Volume 3, Part 2. FY19 Enacted budget for Office of Energy Efficiency and Renewable Energy (EERE), Washington Headquarters, p. 257.
[15] New York State Energy Research and Development Authority (NYSERDA) Fiscal Year 2018-19 Budget and Financial Plan. Market Development/Innovation & Research Expenses, p. 12.
[16] Southwest Research Institute (SWRI) Annual Report 2018 (for fiscal year ending September 2018), p. 24.
[17] Gas Technology Institute (GTI) and Subsidiaries Consolidated Financial Report with Additional Information, December 31, 2016, GTI Budget, p. 45.
[18] *See id.*, pp. 24, 31.
[19] *See* Opening Brief of the CEC to the Phase 1 Issues Identified in the Assigned Commissioner's Scoping Memo and Ruling, p. 62.

D.12-05-037, which include developing investment plans, conducting market analysis to properly scope funding opportunities, evaluating and scoring proposals (which are growing in number), selecting projects for funding, developing agreements, managing the progress of projects and investments, and reporting on results.[20] The CEC follows this direction and includes these expenditures under administrative funds rather than project funds. This is not necessarily consistent across EPIC administrators.

It has been increasingly challenging for CEC to meet such added administrative requirements under the existing cap while continuing to improve the program, meet public outreach needs, and remain up-to-date with current market technologies, scientific issues, and trends.[21] Some examples of key labor-intensive core functions discussed at length in CEC's Opening Brief on Phase 2 Issues include robust solicitation development,[22] agreement management,[23] technology and knowledge transfer,[24] and outreach.[25] Such functions are contributors to the 20.5 person years CEC EPIC staffing deficit identified in October 2020.[26]

This 20.5 person year deficit stems in part from the fact that the administrative requirements of an effective R&D program are much greater than a typical incentive deployment program for commercially available technologies.[27] When the Commission established the 10 percent cap in D.12-05-037, the Commission noted that "it is difficult to identify a rationale that would justify departing from our general practice and precedent of a 10% administrative cap for the energy efficiency, California Solar Initiative, and Self-Generation Incentive programs."[28] Yet incentive programs entail relatively simpler administration and are completed much faster than a research program. In these types of programs, the eligibility criteria are typically established once

---

[20] D. 12-05-037, pp. 65-66

[21] *See* Opening Brief of the CEC on the Phase 2 Issues Identified in the Commission's Phase 1 Decision Renewing EPIC, p. 31.

[22] *Id.*, pp. 27-28 (stressing that "R&D grant programs require the ongoing development of unique competitive solicitations to address specific challenges" requiring extension engagement, workshops, scoping, and drafting).

[23] *Id.*, pp. 28-29 (highlighting that a "research grant requires much more hands-on management than the deployment of commercial technologies" with staff remaining highly engaged for roughly 250 simultaneous EPIC Agreements at a given time).

[24] *Id.*, p. 30 (requiring "[a]greement managers [to] monitor this [technology and knowledge transfer] work and additionally assemble the lessons learned from the research to inform future work").

[25] *Id.*, p. 23 (noting that at "every community meeting, the message is consistent that underserved communities request that the EPIC program staff come to them, and that increased coordination and assistance be provided").

[26] *Id.*, p. 31 (CEC staff is 25% under-resourced, administration is 30% under-resourced, supervisors are 76% under-resourced, office managers are over 118% under-resourced, and division management is 145% under-resourced).

[27] *Id.*, 25-29.

[28] D. 12-05-037, p. 66

at the beginning of the program for incentive payments for deployment of commercially-available technologies; then the program administrator reviews the applications of qualifying applicants against the eligibility criteria before approving an incentive and the subsequent incentive payment.[29]

Research programs, in contrast to incentive programs, have vastly different implementation steps, requiring larger program scope, require substantially more technical expertise, market engagement, and project oversight through solicitation development,[30] agreement management,[31] and technical and knowledge transfer,[32] and technical support.[33] Moreover, evaluating the benefits of a research program is much more complicated and involved than an incentive program.

Additional administrative funding is especially needed to meet the demand for increased coordination and assistance for under-resourced community engagement and input to EPIC. Technical support also comes from the administrative budget to fund certain consultant functions, such as providing topical expert review of proposals for scoring team consideration and administering the CalSEED small grant program.[34] The CEC believes that increasing the administrative cap will result in a better program, increase measurable ratepayer benefits, enable deeper engagement of under-resourced communities, and allow enhanced outreach. The current high level of program standards and benefits should be maintained and not sacrificed due to administrative budget constraints.

d. Revisiting the distinction between administrative funds versus program funds would be beneficial.

The CEC respectfully requests that the CPUC revisit which categorical expenditures are included in administrative funds versus program funds to allow for apples-to-apples comparison across the four administrators. The CEC rigorously complies with CPUC direction on what EPIC expenditures are funded with administrative funds versus program funds. This is not universally consistent across all administrators as the IOUs fund many of their administrative activities,

---

[29] Opening Brief of the CEC on the Phase 2 Issues Identified in the Commission's Phase 1 Decision Renewing EPIC, 25.
[30] *Id.*, 27-28.
[31] *Id.*, pp. 28-29.
[32] *Id.*, p. 30.
[33] *Id.*, 25-26, 31.
[34] *Id.*, p. 30 (stressing that administrative funds are used for technical support such as obtaining "topical expertise reviews of proposals for score team consideration" and "[a]dministration of the CalSEED small grant program").

including solicitation development and project management, with program funds. Hence, reconsidering categorical expenditure classification could be helpful.

3. The CEC Requests Clarity on Reporting Obligations for the Improving Equity Guiding Principle and is Concerned about Measurement Tools for the Proposed Equity Definition.

The Proposed Decision establishes "Improving Equity" as one of the revised Guiding Principles.[35] This revised Guiding Principle states: "EPIC innovations should increasingly support, benefit, and engage disadvantaged vulnerable California communities" and suggests using a definition of "Disadvantaged Vulnerable Communities" (DVC) previously adopted by the Commission in Rulemaking 18-04-019:

> [DVCs] consist of communities in the 25% highest scoring census tracts according to the most recent version of the California Communities Environmental Health Screening Tool (CalEnviroScreen), as well as all California tribal lands, census tracts with medium household incomes less than 60% of state median income, and census tracts that score in the highest 5% of Pollution Burden within CalEnviroScreen, but do not receive an overall CalEnviroScreen score due to unreliable public health and socioeconomic data.[36]

The CEC agrees with the CPUC conceptually on this equity goal but has concerns about whether this additional Guiding Principle would create reporting obligations for the CEC in addition to the CEC's existing and ongoing equity reporting requirements (i.e., Public Resources Code subdivisions 25711.6 (b) and 25711.6 (e)(1) regarding disadvantaged communities and subdivisions 25711.6 (c) and 25711.6 (e)(2) regarding low-income communities).[37] Moreover, the CEC maintains its concern that it is not aware of existing mapping tools or resources that can easily identify DVCs and thereby ensure uniform "apples-to-apples" for any required reporting. This could pose an additional administrative burden on administrators and funding applicants to determine whether communities meet the DVC definition.[38] If the Commission requires DVCs to be precisely measured and reported, the CEC welcomes suggestions on tools, datasets, and methods for administrators to follow.

4. CEC Supports Development of a Unified Benefits Framework for EPIC

[35] Proposed Decision, A-2.
[36] Proposed Decision, pp. 33 n.6, A-2 n.8; *see also* D.20-08-046, Ordering Paragraph 1.
[37] *See id.*, pp. 4-5; *see also* Health & Safety Code § 39711; Pub. Res. Code § 25711.6(e)(1).
[38] CEC Phase 2-B Supplemental Reply Comments on Assigned Commissioner Proposal, p. 4.

The Proposed Decision directs the IOUs to, "coordinate with the CEC and the Commission's Energy Division staff to develop a single, uniform benefits analysis framework and set of metrics that enable the evaluation and tracking of the benefits of all EPIC projects."[39] The CEC supports this but requests that any uniform benefits analysis framework build off the extensive work the CEC has already done. The CEC has developed metrics and methodologies to measure the benefits of EPIC at both the program level and at the project level. The program-level metrics speak to the wide range of objectives of EPIC and were cited multiple times in the Commission's Decision for reauthorizing the CEC's administration of EPIC.[40] In addition, as mentioned in previous submissions, the CEC worked with a consultant to develop a set of tools that supports project-level data collection and benefits analysis which has been shared with the IOUs. [41] The CEC submitted a summary of this benefits framework as part of its Phase 1 Opening Brief.[42] The CEC recommends using its benefits framework as a starting point and looks forward to working with the IOUs and the Commission to expand the framework to include the IOUs' EPIC projects.

The CEC notes that if a single, uniform benefits analysis framework is applied to all EPIC projects, it is unlikely that all metrics will apply to all EPIC projects equally. Because the CEC funds projects in program areas that the IOUs do not, metrics that may apply to CEC projects in Applied R&D or Market Facilitation may not apply to Technology Demonstration and Deployment projects funded by the IOU. Yet the CEC is supportive of developing a unified framework so that, where applicable, an assessment on the performance of EPIC projects across all EPIC administrators can be made.

5. Renaming Technology Demonstration and Deployment Could Lead to Confusion

The Proposed Decision presents two changes to the name and definition of the program areas, one of which is to rename the "Technology Demonstration and Deployment" program area to "Technology Development and Demonstration."[43] The CEC is concerned that adopting the term "Technology Development and Demonstration" sends mixed signals as to what types of projects the IOUs can fund. The Proposed Decision affirms that the IOUs cannot fund projects in the

---

[39] Proposed Decision, Ordering Paragraph 11.
[40] D. 20-08-042, pp. 12-18.
[41] Opening Brief of The California Energy Commission to The Phase 1 Issues Identified in the Assigned Commissioner's Scoping Memo and Ruling, pp. 11-12.
[42] *Id.*
[43] Proposed Decision, pp. 29-30.

Applied R&D and Market Facilitation program areas, stating that the CPUC, "decline[s] to expand the programmatic areas the IOUs may invest in using EPIC funds."[44] However, the CEC believes that if the name "Technology Development and Demonstration" is adopted, this may allow the IOUs to fund projects that overlap with the Applied R&D program area.

The term "technology development" implies technologies that are at relatively early stages of maturity that require advancement of science and engineering. This is contrasted with the original definition of TD&D, which remains unchanged, and focuses on, "the installation and operation of pre-commercial technologies or strategies at a scale sufficiently large and in conditions sufficiently reflective of anticipated actual operating environments to enable appraisal of the operational and performance characteristics and the financial risks."[45] The CPUC has sent clear direction that the IOUs may only fund projects in the TD&D area, and the CEC recommends that the name "Technology Demonstration and Deployment" remain unchanged to avoid blurring the line between what the IOUs can and cannot fund.

6. RPS Noncompliance Funding Lacks a Corresponding Ordering Paragraph

The Proposed Decision provides direction to the CEC on the use of noncompliance penalty monies paid into the EPIC Fund in the State Treasury. The CEC is directed to "draw first from the RPS noncompliance penalty funds in the EPIC fund until the penalty funds are depleted before invoicing the IOUs for EPIC 4 project funds."[46] The CEC supports this method of using the RPS-noncompliance funds as it is the most straightforward method. However, the CEC notes that while this direction is given in body of the Proposed Decision, there is not a corresponding directive included in any of the ordering paragraphs. The CEC recommends the CPUC include the direction to the CEC on use of the RPS noncompliance funds in an ordering paragraph.

III. CONCLUSION

The CEC appreciates the opportunity to comment on the Proposed Decision. In sum, the CEC first requests that the Proposed Decision be modified to clarify the initiative categories should be in line with the following six strategic policy objectives the CEC has used to organize its research topics in EPIC 4:

(1) Accelerate Cost Reductions for Renewable Generation Technologies;

---

[44] *Id.*, p. 29.
[45] D. 12-05-037, Findings of Fact Paragraph 4.
[46] Proposed Decision, pp. 38.

(2) Achieve Reliability and Create a Nimble Grid Responsive to Intermittent Renewable Generation;

(3) Increase the Value Proposition of Distributed Energy Resources to Customers and the Grid; (4) Improve the Customer Value Proposition of End-use Efficiency and Electrification Technologies;

(5) Enable Successful Clean Energy Entrepreneurship Across California; and

(6) Inform California's Transition to an Equitable, Zero-Carbon Energy System that is Climate Resilient and Meets Environmental Goals.

The Proposed Decision could also clarify that the IOUs should use similar initiative categories that are applicable to their investment plans. Second, the CEC requests that the Proposed Decision be revised to increase the ten-percent cap on administrative expenses. The Audit Report and record are absent of any support for the conclusion that the CEC can sustainably remain within that amount, and the CEC requests an administrative expense increase to 15 percent for EPIC to remain viable. The CEC stresses that it has meticulously complied with the CPUC's direction on administrative funding categorization and that revisiting the distinction between administrative funds versus program funds would be beneficial. Third, the CEC is concerned about additional reporting obligations on equity as well as the availability of tools to ensure uniformity if any reporting is required. Fourth, the CEC supports development of a unified benefits framework for EPIC. Fifth, the CEC recommends that the name "Technology Demonstration and Deployment" remain unchanged to avoid blurring the line between what the IOUs can fund. Finally, the CEC recommends that the CPUC include the direction to the CEC on use of the RPS noncompliance funds in an ordering paragraph.

Dated this 24th day of August 2021.

Respectfully submitted,

/S/ Christina Evola

Christina Evola
Senior Attorney
Chief Counsel's Office
CALIFORNIA ENERGY COMMISSION
715 P Street
Sacramento, CA 95814-5512
Telephone: (916) 891-8095
Email: christina.evola@energy.ca.gov